

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MICHAEL JAMES FRANKS,

Defendant.

CR 13-11-GF-BMM

ORDER

This case was referred to United States Magistrate Judge John Johnston for a revocation hearing and findings and recommendations. Judge Johnston entered his findings and recommendations on December 20, 2016. Defendant admitted that he had violated the conditions of his supervised release by failing to answer truthfully all inquiries by his probation officer, by being within 100 yards of a school, by failing to complete sex offender treatment, by possessing sexually explicit material, and by possessing an electronic device with video-recording capabilities. Judge Johnston found the admissions sufficient to establish the alleged supervised release violations. Judge Johnston recommended that this Court revoke Defendant's supervised release and commit him to the custody of the United States Bureau of Prisons for a term of imprisonment of 18 months, with 12 months of supervised release to follow. Judge Johnston further recommended that the Defendant serve his sentence in a facility that offers sex offender treatment.

No objections were filed by either party. Judge Johnston's findings and recommendations are therefore reviewed for clear error. *McDonnell Douglas Corp. Commadore Bus. Mach, Inc.*, 656 F.2d 1309, 1319 (9th Cir. 1981).

This Court agrees with Judge Johnston's findings. Defendant admitted that he had violated the conditions of his supervised release. Defendant could be incarcerated for up to 24 months, followed by 42 months of supervised release less any custody time imposed. The United States Sentencing Guidelines call for a term of imprisonment of five to 11 months. A sentence of 18 months in custody, followed by 12 months of supervised release is appropriate. The sentence recommended by Judge Johnston is sufficient but not greater than necessary.

IT IS ORDERED that Judge Johnston's Findings and Recommendations (Doc. 77) are ADOPTED in full and Judgment shall be entered accordingly.

DATED this 9th day of January, 2017.



Brian Morris
United States District Court Judge